



FEDERAL TRADE COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of modified system of records.

SUMMARY: The FTC is making technical revisions to one of the notices that it has published under the Privacy Act of 1974. This action is intended to make the notice clearer, more accurate, and up-to-date.

DATES: This notice shall become final and applicable on [insert the date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: G. Richard Gold, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-3355.

SUPPLEMENTARY INFORMATION: To inform the public, the FTC publishes in the FEDERAL REGISTER and posts on its website a “system of records notice” (SORN) for each system of records that the FTC currently maintains within the meaning of the Privacy Act of 1974, as amended, 5 U.S.C. 552a (Privacy Act or Act). See <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems>. The Privacy Act protects records about individuals in systems of records collected and maintained by Federal agencies.¹ Each Federal agency, including the FTC, must publish a SORN that describes the records maintained in each of its Privacy Act systems, including the categories of individuals that the records in the system are about, where and how the agency maintains these records, and how individuals can find out whether an agency system contains any records about them or request access to their records, if any. The

¹ A system is not a “system of records” under the Act unless the agency maintains and retrieves records in the system by the relevant individual’s name or other personally assigned identifier.

FTC, for example, maintains 40 systems of records under the Act. Some of these systems contain records about the FTC's own employees, such as personnel and payroll files. Other FTC systems contain records about members of the public, such as public comments, consumer complaints, or phone numbers submitted to the FTC's Do Not Call Registry.

For this notice, the FTC is revising FTC-II-1 (General Personnel Records—FTC) to ensure that the SORN remains clear, accurate, and up-to-date. This SORN covers Official Personnel Folders (OPFs) and the approved electronic equivalent (the electronic OPF or eOPF) and other personnel records that the FTC's Human Capital Management Office (HCMO) maintains about FTC employees. The Office of Personnel Management (OPM) has published a Government-wide SORN that covers this system of records, OPM/GOVT-1 (General Personnel Records). See 71 FR 35341, 35342 (2006). The Commission has updated or clarified the sections on authority, purpose, retention of records, and procedures for employees and former employees on record access, contesting records and notification.

The FTC is not substantively adding or amending any routine uses of its Privacy Act system records. Accordingly, the FTC is not required to provide prior public comment or notice to OMB or Congress for these technical amendments, which are final upon publication. See U.S.C. 552a(e)(11) and 552a(r); OMB Circular A-108, *supra*.

FTC Systems of Records Notices

In light of the updated SORN template set forth in the revised OMB Circular A-108 (2016), the FTC is reprinting the entire text of the amended SORN to read as follows:

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II. Commission Personnel Systems of Records

SYSTEM NAME AND NUMBER:

General Personnel Records—FTC (FTC–II–1).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 80 FR 9460, 9465 (Feb. 23, 2015).

SYSTEM MANAGER(S):

Chief Human Capital Officer, Human Capital Management Office, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, email: SORNs@ftc.gov. See OPM/GOVT-1 for information about the system manager and address for that system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 2951, 3301, 3372, 4118, 8347; the Rehabilitation Act of 1973, 29 U.S.C. 791; Executive Orders 9397, 9830, 12107 and 13164; and 5 CFR pt. 293.

PURPOSE(S) OF THE SYSTEM:

The Official Personnel Folder (OPF), its approved electronic equivalent (the electronic OPF or eOPF), and other general personnel records are the official repository of the records, reports of personnel actions, and the documents required in connection with those actions effected during an employee’s Federal service. The personnel action reports and other documents, some of which are filed as long term records in the OPF, give legal force and effect to personnel transactions and establish employee rights and benefits under pertinent laws and regulations governing Federal employment. The OPF,

which exists in various approved media, is maintained for the period of the employee's service in the Commission and is then transferred to the National Personnel Records Center for storage or, as appropriate, to the next employing Federal agency. Other records are either retained at the agency for various lengths of time in accordance with National Archives and Records Administration records schedules or destroyed when they have served their purpose or when the employee leaves the agency. They provide the basic source of factual data about a person's Federal employment while in the service and after his or her separation. Records in this system have various uses including: screening qualifications of employees; determining status, eligibility, and employees' rights and benefits under pertinent laws and regulations governing Federal employment, including requests for reasonable accommodation by applicants with disabilities or sincerely held religious beliefs, practices, or observances; computing length of service; and for other information needed in providing personnel services. These records and their automated or microformed equivalents may also be used to locate individuals for personnel research. Temporary documents on the left side of the OPF may lead (or have led) to a formal action, but do not constitute a record of it, nor make a substantial contribution to the employee's long term record.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current Federal Trade Commission employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Each category of records may include identifying information such as name(s), date of birth, home residence, mailing address, Social Security number, and home telephone number. This system includes, but is not limited to, the contents of the Official Personnel Folder (OPF) maintained by the FTC's Human Capital Management Office (HCMO) and described in the United States Office of Personnel Management (OPM) Guide to Personnel Recordkeeping and in OPM's Government-wide system of records

notice for this system, OPM/GOVT-1. (Nonduplicative personnel records maintained by FTC employee managers in other FTC offices are covered by FTC-II-2, Unofficial Personnel Records–FTC.) Records in this system (FTC-II-1) include copies of current employees’ applications for employment, documentation supporting appointments and awards, benefits records (health insurance, life insurance, retirement information, and Thrift Savings Plan information), investigative process documents, personnel actions, other personnel documents, changes in filing requirements, and training documents.

Other records include:

a. Records reflecting work experience, educational level achieved, specialized education or training obtained outside of Federal service.

b. Records reflecting Federal service and documenting work experience and specialized education or training received while employed. Such records contain information about past and present positions held; grades; salaries; and duty station locations; commendations, awards, or other data reflecting special recognition of an employee’s performance; and notices of all personnel actions, such as appointments, transfers, reassignments, details, promotions, demotions, reductions in force, resignations, separations, suspensions, approval of disability retirement applications, retirement and removals.

c. Records relating to participation in the Federal Employees’ Group Life Insurance Program and Federal Employees Health Benefits Program.

d. Records relating to an Intergovernmental Personnel Act assignment or Federal-private exchange program.

e. Records relating to participation in an agency Federal Executive or SES Candidate Development Program.

f. Records relating to Government-sponsored training or participation in the agency’s Upward Mobility Program or other personnel programs designed to broaden an

employee's work experiences and for purposes of advancement (e.g., an administrative intern program).

g. Records connected with the Senior Executive Service (SES), for use in making studies and analyses of the SES, preparing reports, and in making decisions affecting incumbents of these positions, e.g., relating to sabbatical leave programs, training, reassignments, and details, that are perhaps unique to the SES and which may or may not be filed in the employee's OPF. These records may also serve as basis for reports submitted to OMB's Executive Personnel and Management Development Group for purposes of implementing the Office's oversight responsibilities concerning the SES.

h. Records on an employee's activities on behalf of the recognized labor organization representing agency employees, including accounting of official time spent and documentation in support of per diem and travel expenses.

i. To the extent that the records listed here are also maintained in the agency automated personnel or microform records system, those versions of the above records are considered to be covered by this system notice. Any additional copies of these records (excluding performance ratings of record and conduct-related documents maintained by first-line supervisors and managers covered by FTC-II-2) maintained by agencies at field or administrative offices remote from where the original records exist are considered part of this system.

j. Records relating to designations for lump sum death benefits.

k. Records relating to classified information nondisclosure agreements.

l. Records relating to the Thrift Savings Plan (TSP) concerning the starting, changing, or stopping of contributions to the TSP as well as the how the individual wants the investments to be made in the various TSP Funds.

m. Copies of records contained in the Enterprise Human Resources Integration (EHRI) data warehouse (including the Central Employee Record, the Business

Intelligence file that provide resources to obtain career summaries, and the electronic Official Personnel Folder (eOPF)) maintained by OPM. These data elements include many of the above records along with additional human resources information such as training, payroll and performance information from other OPM and agency systems of records. A definitive list of EHRI data elements is contained in OPM's Guide to Human Resources Reporting and The Guide to Personnel Data Standards.

n. Emergency contact information for the employee (see, e.g., FTC Form 75), which is kept on the left side of the OPF.

RECORD SOURCE CATEGORIES:

Individual to whom the record applies and agency employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Performance Related Uses

(a) To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit;

(b) To disclose to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government in response to its request, or at the initiation of the agency maintaining the records, information in connection with the hiring of an employee; the issuance of a security clearance; the conducting of a security or suitability investigation of an individual; the classifying of jobs; the letting of a contract; the issuance of a license, grant, or other benefit by the requesting agency; or the lawful

statutory, administrative, or investigative purpose of the agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter;

(c) By the agency or by OPM to locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference;

(d) To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained;

(e) To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law;

(f) To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978;

(g) To disclose to prospective non-Federal employers, the following information about a specifically identified current or former Federal employee:

(i) Tenure of employment;

- (ii) Civil service status;
- (iii) Length of service in the agency and the Government; and
- (iv) When separated, the date and nature of action as shown on the Notification of Personnel Action, Standard Form 50 (or authorized exception);

(h) To consider employees for recognition through quality step increases, and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition;

(i) To consider and select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors;

(j) To disclose information to any member of the agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development of SES candidate programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance;

(k) By agency officials for purposes of review in connection with appointments, transfers, promotions, reassignments, adverse actions, disciplinary actions, and determinations of the qualifications of an individual;

(l) By the Office of Personnel Management for purposes of making a decision when a Federal employee or former Federal employee is questioning the validity of a specific document in an individual's record; and

(m) As a data source for management information for promotion of summary descriptive statistics and analytical studies in support of the related personnel management functions of human resource studies; may also be utilized to locate specific individuals for personnel research or other personnel management functions;

(2) Training/Education Related Uses

(a) To disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes; and

(b) To disclose information to educational institutions on appointment of a recent graduate to a position in the Federal service, and to provide college and university officials with information about their students working under the Cooperative Education Volunteer Service, or other similar programs where necessary to a student's obtaining credit for the experience gained;

(3) Retirement/Insurance/Health Benefits Related Uses

(a) To disclose information to: the Department of Labor, Department of Veterans Affairs, Social Security Administration, Department of Defense, Federal agencies that have special civilian employee retirement programs; or a national, State, county, municipal, or other publicly recognized charitable or income security administration agency (e.g., State unemployment compensation agencies) where necessary to adjudicate a claim under the retirement, insurance or health benefits programs of the Office of Personnel Management or an agency cited above, or to an agency to conduct an analytical study or audit of benefits being paid under such programs;

(b) To disclose to the Office of Federal Employees Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance;

(c) To disclose to health insurance carriers contracting with the Office of Personnel Management to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination or audit of benefit provisions of such contracts;

(d) When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled;

(e) To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with an examination ordered by the agency under:

(i) Fitness-for-duty examination procedures; or

(ii) Agency-filed disability retirement procedures;

(f) To disclose to a requesting agency, organization, or individual the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal work force; and

(g) To disclose information to the Department of Defense, National Oceanic and Atmospheric Administration, and the United States Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of 5 U.S.C. 5532;

(4) Labor Relations Related Uses

(a) To disclose information to the Federal Labor Relations Authority (including its General Counsel) when requested in connection with investigation and resolution of allegations of unfair labor practices, in connection with the resolution of exceptions to

arbitrator's awards where a question of material fact is raised and matters before the Federal Service Impasses Panel; and

(b) To disclose information to officials of labor organizations recognized under 5 U.S.C. 71 et seq. when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; and

(5) Miscellaneous Uses

(a) To provide data to OPM for inclusion in the automated Center Personnel Data File;

(b) To be disclosed for any other routine use set forth in the Government-wide system of records notice published for this system by OPM, see OPM/GOVT-1, or any successor OPM system notice that may be published for this system (visit www.opm.gov for more information);

(c) To disclose information to a Federal, state, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs; and

(d) To locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55541, 55542-55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be maintained on standard legal-size and letter-size paper, and in electronic storage media such as personnel system databases and .pdf forms.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed by employee name and social security number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The OPF is maintained for the period of the employee's service in the agency and is then, if in a paper format, transferred to the National Personnel Records Center for storage or, as appropriate, to the next employing Federal agency. If the OPF is maintained in an electronic format, the transfer and storage is in accordance with the OPM-approved electronic system according to the most current version of OPM's Guide to Personnel Recordkeeping. Destruction of the OPF is in accordance with General Records Schedule GRS-2.2, Items 40-41.

When the individual transfers to any Federal agency or to another appointing office, the OPF is sent to that agency or office. All personnel-related medical records, except for those relating to reasonable accommodation requests, are covered by a separate OPM Privacy Act system of records notice, OPM/GOVT-10.

Other records. These records are retained for varying periods of time as set out by GRS 2.2.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are maintained in lockable rooms or file cabinets. (In addition, FTC HCMO offices are in a locked suite separate from other FTC offices not generally accessible to the public or other FTC staff.) Access to electronic records is controlled by "user ID" and password combinations and/or other appropriate electronic

access or network controls (e.g., firewalls). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008). Current FTC employees may also access their records directly by utilizing OPM's approved electronic Official Personnel Folder system, using their assigned user ID and password.

Former FTC employees subsequently employed by another Federal agency should contact the personnel office for their current Federal employer. Former employees who have left Federal service and want access to their official personnel records in storage should contact the National Personnel Records Center, 1411 Boulder Boulevard, Valmeyer, IL 62295.

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008). Current FTC employees may also access their records directly by utilizing OPM's approved electronic Official Personnel Folder system, using their assigned user ID and password.

Former FTC employees subsequently employed by another Federal agency should contact the personnel office for their current Federal employer. Former employees who have left Federal service and want access to their official personnel records in storage should contact the National Personnel Records Center, 1411 Boulder Boulevard, Valmeyer, IL 62295.

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008). Current FTC employees may also access their records directly by utilizing OPM's approved electronic Official Personnel Folder system, using their assigned user ID and password.

Former FTC employees subsequently employed by another Federal agency should contact the personnel office for their current Federal employer. Former employees who have left Federal service and want access to their official personnel records in storage should contact the National Personnel Records Center, 1411 Boulder Boulevard, Valmeyer, IL 62295.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

84 FR 16493-16510 (April 19, 2019)

80 FR 9460-9465 (February 23, 2015)

74 FR 17863-17866 (April 17, 2009)

73 FR 33591-33634 (June 12, 2008).

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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